



FISCAL MEMORANDUM

HB 30 - SB 841

February 6, 2023

SUMMARY OF BILL AS AMENDED (003060): Requires a person, in jurisdictions with an adult-oriented establishment board (Board), to obtain a valid entertainer permit from the Board prior to performing adult cabaret entertainment for compensation. Prohibits public, private, and commercial establishments from allowing a person younger than 18 to attend a performance featuring adult cabaret entertainment.

FISCAL IMPACT OF BILL AS AMENDED:

**Increase Local Revenue – \$5,500/FY23-24
\$825/FY24-25 and Subsequent Years**

Other Fiscal Impact – The extent and timing of any increase in local revenue due to licensure and renewal fees for adult-oriented establishment operators cannot be reasonably determined.

Assumptions for the bill as amended:

- Pursuant to the *Adult-Oriented Establishment Registration Act of 1998* (Act):
 - A county or metropolitan government may establish a Board to license and regulate adult-oriented establishments (Establishments), upon two-thirds vote of the county legislative body or metropolitan legislative body;
 - An Establishment includes, but is not limited to, an adult bookstore, adult motion picture theater, adult mini-motion picture establishment, adult cabaret, escort agency, sexual encounter center, massage parlor, rap parlor, and sauna;
 - A city or other political subdivision of this state that enacts and enforces its own regulatory scheme for Establishments is not subject to requirements of the Act, with certain exceptions;
 - An operator of an Establishment must obtain a license to operate issued by the Board and pay a \$500 license fee and a \$100 annual renewal fee;
 - An entertainer, employee, or escort in an Establishment must obtain a permit issued by the Board and pay a \$100 permit fee and a \$15 annual renewal fee;
 - A county, city, or other political subdivision that chooses to license and regulate Establishments shall conduct a criminal conviction records check of the applicant; any cost incurred in conducting such records check shall be paid by the applicable local governmental entity and may be included as part of any fee the entity charges for processing licenses or permits; and

- A violation of the Act for a first offense is a Class B misdemeanor, punishable by a fine of \$500, and shall result in a suspension or revocation of any license; a second or subsequent violation is a Class A misdemeanor, and shall result in the suspension or revocation of any license.
- Pursuant to Tenn. Code Ann. § 39-17-901, the term “harmful to minors” means that quality of any description or representation, in whatever form, of nudity, sexual excitement, sexual conduct, excess violence or sadomasochistic abuse when the matter or performance:
 - Would be found by the average person applying contemporary community standards to appeal predominantly to the prurient, shameful or morbid interests of minors;
 - Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and
 - Taken as whole lacks serious literary, artistic, political or scientific values for minors.
- The proposed legislation:
 - Defines adult cabaret to include a commercial establishment that features adult cabaret entertainment as a principal use of its business;
 - Defines adult cabaret entertainment as adult-oriented performances that are harmful to minors, as that term is defined in Tenn. Code Ann. § 39-17-901, and that feature go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers and includes a single performance or multiple performances by an entertainer;
 - Requires a person to obtain a valid permit from the Board, in jurisdictions with such Board, prior to providing adult cabaret entertainment for compensation; and
 - Prohibits public, private, and commercial establishments from allowing a person younger than 18 to attend a performance featuring adult cabaret entertainment.
- It is not known how many businesses would be considered an adult cabaret, and therefore, qualify as an Establishment due to the proposed legislation.
- Any increase to the number of Establishments within a Board’s jurisdiction would represent an increase in local revenue in that jurisdiction due to Establishment operator licensure and renewal fees; however, the extent and timing of any increase in local revenue cannot be reasonably determined.
- It is not known how many persons provide adult cabaret entertainment for compensation and as a result of this legislation would be required to obtain a valid permit from the Board.
- Based on the May 2021 State Occupational Employment and Wage Estimates from the U.S. Bureau of Labor Statistics’, there are 110 employees in Tennessee classified under entertainers and performers and sports related workers, all other.
- For the purpose of this analysis, it is assumed that the 110 employees are representative of the number of individuals who may seek a valid permit from a Board in order to provide adult cabaret entertainment for compensation.
- Assuming fifty percent, or 55 individuals (110 x 50%), will obtain a permit, there will be an increase to local revenue of \$5,500 (55 x \$100 permit fee) in FY23-24 and \$825 (55 x \$15 renewal fee) in FY24-25 and subsequent years.

- It is assumed that any cost incurred by a local governmental entity in conducting the statutorily required criminal conviction records check of license and permit applicants would be included as part of any fee the entity charges for processing applications, resulting in no significant increase to local expenditures.
- Any increase to the number of license and permit applicants will be absorbed by the Board utilizing existing resources and staff.
- It is assumed that the proposed legislation would not result in any significant increase in violations.
- Prohibiting certain establishments from allowing minors to attend a performance featuring adult cabaret entertainment is not expected to result in a sufficient change in the number of prosecutions for state or local government to experience any significant change in revenue or expenditures.
- Any impact to the court system as a result of the proposed legislation is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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